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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/780,603	02/12/2001	Kirt E. Whiteside	WHS.P0018A	8458

7590 09/07/2004

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Akron, OH 44308-1456

EXAMINER

RESTIFO, JEFFREY J

ART UNIT	PAPER NUMBER
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3618

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/780,603

Applicant(s)

WHITESIDE, KIRT E.

Examiner

Jeffrey J. Restifo

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mw

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-13 and 16-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-13 and 16-19 is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2/12/01 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Acknowledgments

1. Acknowledgment is made of the amendment filed 5/28/04. This amendment has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miles et al. (US 5,892,062 A) and in further view of Bonzer et al. (US 4,559,669 A) and Block (US 4,034,434 A).

With respect to claim 1, Miles et al. discloses a creeper 1 comprising opposed side rails 4-7, a pad 18-20 between said side rails, and a plurality of casters 8-11 attached to a planar bottom surface of said side rails and rotatable about vertical axis located within the profile of the side rails, as shown in figures 1-6. Miles et al. does not disclose the caster wheel as having a hemispherical or semi-elliptical cross-section. Bonzer et al. does disclose a caster with a wheel body 18 having a semi-elliptical cross-section, as shown in figure 2. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided the creeper of Miles et al. with the

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caster assembly of Bonzer et al. in order to allow the creeper to turn with less force exerted by a user due to less friction between the wheel and support surface and to absorb shock.

Neither Miles et al. nor Bonzer et al. disclose the wheel body as having a hardness from about 65 to about 85 Shore durometer type D. Block does disclose a wheel 66 having a hardness of 65/75 Shore D Durometer, as recited in column 3, line 65. It would have been obvious to one having ordinary skill in the art at the time of the invention was to have designed the wheel assembly of Miles et al. as modified by Bonzer et al. with a hardness of 65/75 Shore D Durometer, as taught by Block, in order to prevent wear on the wheel.

With respect to claims 2 and 3, Bonzer et al. discloses the wheel body as having a hub including a axial bore 46, inner rim 45, outer rim 69, and radial supports 47, as shown in figure 2.

4. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miles et al. and Gruber, as applied to claim 3 above, and further in view of Doyle et al. (US 4,707,880 A).

Neither Miles et al. nor Gruber disclose the wheel assembly as being selected from the recited materials. Doyle et al. does disclose a caster wheel 28 composed of polyurethane, as recited in column 3, lines 28-29. It would have been obvious to one having ordinary skill in the art at the time of the invention to have composed the caster wheel of the creeper of Miles et al. and Gruber out of polyurethane, as taught by Doyle et al., in order to give the wheel increased durability and decreased weight.

Allowable Subject Matter

5. Claims 7-13 and 16-19 are allowed.
6. The following is an examiner's statement of reasons for allowance: In claim 7, the recitation of the tapering cross section of the side rails in combination with the rest of the recited structure and in light of an appeal decision of similar case 09/523,469 defines over the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

7. Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection. The applicant's amendment warranted the new grounds of rejection including the Bonzer et al. reference which was previously cited.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

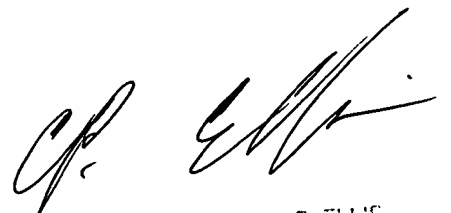
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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey J. Restifo whose telephone number is (703) 305-0579. The examiner can normally be reached on M-F (10:00-6:00), alternate Friday off.

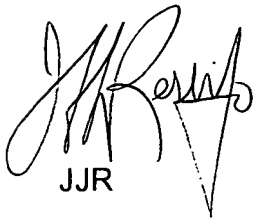
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher P. Ellis can be reached on (703) 305-0168. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



CHRISTOPHER P. ELLIS
SUPERVISOR, ART UNIT 3618
TECHNICAL CENTER 3000

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



JJR

Jeffrey J. Restifo
Examiner
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